

1900-002
Lee Co.

Chancery Causes: E. W. Pennington, comr. vs. James Grady &c

Mallett, Starkey

Ch. Contract Dispute
T. Property

To The Hon. H. A. W. Skene, Judge of the circuit court for Lee County.

Humbly complaining your orator
E. W. Pennington, as Comr. in the
Chancery cause of Wm. Pennington vs.
C. B. Mallitt et al., pending in the
circuit court for Lee County, shewed
respectively represent unto your Honor
that on the 9th day of June, 1898, James
Grady and H. M. Starkey bought from
C. B. Russell and Isaiah Pennington all
the white-oak stove timber 16 inches
and above in diameter at the butt
then standing on said Russell's and Pen-
nington's land in the Pocket country
and known as the Pennington-Mallitt
tract of 996 acres; that said Starkey
& Grady were to pay to said Russell
& Pennington the sum of \$800⁰⁰ for said
timber, as follows:

First payment cash down	\$50 ⁰⁰
2 nd " " or before July 10 th 1898	100.00
3 rd " " " August 10 th 1898	50.00
4 th " " " Sept 10 th 1898	100.00
5 th " " " Oct 10 th 1898	100.00
6 th " " " Nov. 10 th 1898	100.00
7 th " " " Dec. 10 th 1898	50.00
8 th " " " Jan 10 th 1899	50.00
9 th " " " Mar. 10 th 1899	50.00
10 th " " " April 10 th 1899	50.00
11 th " " " May 10 th 1899	100.00

That by the terms of the contract was

tered into between said parties, all of said payments becoming due after Jan 1st 1899 and being unpaid should bear interest from Jan. 1st 1899 till paid.

Your orator will further allege and show unto your honor that said contract was in writing duly signed and acknowledged by said parties and the same on August 2nd 1898 placed upon record which contract is here filed as a part of this bill and prayed to be taken as a part of the same; that on July 16th 1898 said Russell & Pennington by a writing endorsed on said contract assigned all of said defunct payments except the first one, that is the one due on July 10th 1898, to your orator; that the said two first payments on the purchase price of said timber have been made to said Russell and Pennington; that said Grady and Starkey have made the following payments to your orator:

Aug. 13 th , 1898	\$50. ⁰⁰	
Oct. 3 rd 1898	100.00	
Jan. 3 rd 1899	100.00	
June 23/1899	50.00	
July 27 th 1899	50.00	
Sept. 30 th 1899.	110.83	or a total

of \$460.83, or a sum sufficient to pay all deferred payments and interest on the deferred payments down to and including the eight payment; that the 9th, 10th & 11th payments or \$200⁰⁰ with interest from Jan 1st 1899 is still due, owing and unpaid; and that by the express terms of said contract, said Russell & Pennington had a lien upon all the timber sold, and all staves made from the timber sold to said Starkey & Grady until the whole of the purchase price of the same was fully paid.

Now your orator is advised that by virtue of said contract and assignment to him, he has a lien upon said timber & staves made therefrom, or such of the same as may yet be in existence or standing on said land to the extent of said \$200⁰⁰ and interest on same from Jan 1st, 1899 till paid.

Your orator will further show unto your honor that a small portion of the said timber is still standing on said land; that said Grady & Starkey have now made several hundred staves from said timber now on said land and are now preparing to move the same off to market, and they fail & refuse to pay your

orator said balance due him.

Now the object of this bill is to en-
force the lien of your orator against
said timber & staves for said \$200⁰⁰ and in-
terest, which your orator is advised
can only be done in your honor's court
in chancery. To that end your orator
prays that your honor take cognizance
of this his cause of complaint; that
if necessary, said Starkey & Grady and
all others working under or for
them be enjoined and prohibited
from further interfering with, or
moving the timber from said land
or the staves made from said
timber; that a receiver be appointed
to take charge of said timber &
staves until a final order in
this cause; that said James
Grady and W.M. Starkey be made
parties defendants to this bill,
that they be required to answer
the same fully but they need
not do so on oath as that is
waived; that on a hearing of
this cause your orator be given
a judgment for said \$200⁰⁰ with
interest thereon from Jan 1st 1899
till paid & costs of this suit; that
your orator be declared to have
a lien upon said staves & timber
for said sum of money & interest

that enough of the same ~~but~~ be
sold for cash to pay said sum
of money, its interest & the costs
of this suit. And that all other
further and general relief be
awarded your orator that the
nature of his cause may re-
quire to comport with equity
and good conscience. May
process issue &c. And he
will well pray &c.

Pennington Bros.

E. W. Pennington Counsel

vs. } Bill to Chan.

fas. Grady & H. M. Starky.

1900 2nd May Rules dismissed
by plaintiff without prej
udice

E. W. PENNINGTON.

ROBT. L. PENNINGTON.

Pennington Bros.

ATTORNEYS AT LAW.

JONESVILLE AND PENNINGTON GARVA

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *James Grady & H.M. Starkey*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the *3rd* Monday in *May 1900* ~~189~~, to answer a bill in chancery exhibited against *them* in our said court by *E. M.*

*Permington come in the Chancery Cause of
Mrs Permington vs L.E. Mallett*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *11th* day of *May 1900* ~~189~~, and in the *124th* year of the Commonwealth.

A Copy

A.B. Munsey Clerk

Testi: A.B. Munsey Clerk

vs.

{

**SUBPOENA
IN CHANCERY**

p. q.

To *Rules.*

Court.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *James Grady & H. M. Starkey*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held
for the said court, on the *3rd* Monday in *May 1900* ~~1899~~, to answer a
bill in chancery exhibited against *them* in our said court by *E. M.*

Pennington ~~vs~~ *in the Chancery Cause of*
Wm Pennington vs L. E. Mallett

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the
court-house, the *11th* day of *May 1900* ~~1899~~, and in the *124th* year of the
Commonwealth.

A. B. Munsey Clerk

E. M. Pennington Comr

vs. {

SUBPOENA
IN CHANCERY

James Grady et als

Pennington Bros p. q.

To *2nd May* Rules.

1900. Circuit Court.

*Not Executed.
not found*

C. W. Ballou

*1900. 2nd may rules
dismissed by Plaintiff
without prejudice*

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *James Grady & H. M. Starkey*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held
for the said court, on the *3rd* Monday in *May 1900* ~~1899~~, to answer a
bill in chancery exhibited against *them* in our said court by *E. W. Pennington*
Come in the Chancery Cause of Mrs Pennington vs
L. E. Mallett

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the
court-house, the *11th* day of *May 11th* ~~1899~~, and in the *12 4th* year of the
Commonwealth.

A. B. Munsey Clerk

May 16 1900

Form No. 300 $\frac{1}{2}$.

E. W. Pennington Comr.

vs. {

SUBPOENA

IN CHANCERY

James Grady et als

Pennington Bros p. q.

To 2nd May Rules.

1900. Circuit Court.

Executed May 16 1900
by Delivering an at
tested office copy
of the within to
James Grady

D. P. Ely D. S.
for W. J. McLehann

Ed. f